

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Streamlining the Commission's Rules)
and Regulations for Satellite)
Application and Licensing Procedures)

IB Docket No. 95-117

DOCKET FILE COPY ORIGINAL

To: The Commission

REPLY COMMENTS OF CTA INCORPORATED

CTA Incorporated ("CTA"), by its attorneys, hereby submits its reply comments in response to comments filed in the above-captioned proceeding.^{1/} CTA notes that the majority of commenters in this proceeding strongly support the Commission's proposals to streamline the regulation of the satellite industry, and, by these reply comments, CTA reiterates its support for these Commission's proposals. In addition, CTA responds specifically to those commenters that raised additional issues or that have suggested the expansion or alteration of the Commission's proposals.^{2/}

^{1/} In the Matter of Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures, Notice of Proposed Rulemaking, FCC 95-285 (Aug. 11, 1995) ("NPRM").

^{2/} In this regard, CTA has limited its comments to those filings that raise issues of relevance to CTA's business -- the design and development of small communications satellites, space systems, and satellite ground systems -- and to its plans to develop a "little LEO" satellite system.

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I. The Commission Should Not Delay Streamlining of its Regulations.

Loral/QUALCOMM Partnership, L.P. ("Loral/QUALCOMM"), generally supports the Commission's proposed modifications to the Part 25 rules, but recommends that the issue of whether to eliminate the construction permit requirement for satellites be deferred and considered in the International Bureau's recently announced review of satellite licensing policies.^{3/} Alternatively, in the event that the Commission adopts its construction permit proposal, Loral/QUALCOMM urges the Commission to require an applicant to request authority for a specific level of spending over a specific period of time (as is generally required in granting Section 319(d) waivers), as a means to provide a structure to the new policy.

CTA urges the Commission to reject Loral/QUALCOMM's proposals, and to move forward expeditiously with elimination of the construction permit requirement. The International Bureau's comprehensive review of satellite licensing policies is a welcome regulatory initiative in which CTA plans to participate actively. As the International Bureau noted in its public notice announcing the initiative, however, it expects to gather informal industry comments this autumn, and hopes these comments will form the

^{3/} See "International Bureau to Review Satellite Licensing Policies," Public Notice, September 20, 1995. Loral/QUALCOMM argues that a comprehensive review of satellite licensing policies would provide a better context for comment on the complex issues regarding this proposal, noting that the adoption of a blanket construction waiver may implicate issues such as how to process mutually exclusive applications and what financial standard to apply to space station applicants.

basis for a formal rulemaking proposal early in 1996. As a result, even under a very optimistic scenario, it likely will be mid-1996 before the International Bureau can initiate and complete a comprehensive rulemaking on satellite licensing matters.

CTA sees no reason why a Commission proposal that has received widespread industry support, including support from Loral/QUALCOMM, should be delayed pending the International Bureau's comprehensive review. Moving forward now with changes to the construction permit requirement -- an immediate improvement over the current licensing regime -- would not prevent further consideration of the overall satellite licensing process later. Loral/QUALCOMM's alternative proposal, moreover, appears to be an effort to maintain the status quo; under this proposal, prospective applicants would be required to file specific requests for Commission authority to spend specified amounts on their systems over set periods of time. Loral/QUALCOMM offers no compelling reason for not proceeding with elimination of the construction permit requirement at the earliest opportunity, and CTA urges the Commission to reject any proposal to delay this deregulatory initiative.

II. The Commission Should Clarify its Requirements for Notification of Satellite Construction.

A. The Commission Should Require a Minimally Acceptable Application to Be on File Prior to Commencing Construction.

Several commenters, including Motorola, Inc. ("Motorola"), and GE American Communications, Inc. ("GE Americom"), support the Commission's proposal to eliminate the satellite construction permit requirement, but urge the Commission to require a minimally acceptable application for construction of the satellite(s) to be on file with the Commission. GE Americom also proposes that any construction be consistent with the description of the satellite filed in the application.^{4/} CTA supports these proposals.

As Motorola points out,^{5/} requiring the filing of a minimally acceptable application would reduce the risk that the Commission will be faced with speculative construction by unqualified parties, yet would not unduly burden prospective applicants. Requiring such filings also would allow consumers, competitors, and other interested parties the opportunity to review the applications of prospective licensees, and to take appropriate action when they believe that the public interest would not be served by the construction of the satellite at issue. Requiring that construction be consistent (but not necessarily identical with) the description of the satellite

^{4/} See GE Americom Comments at 3.

^{5/} Motorola Comments at 3.

filed in the application would ensure that applicants carefully consider the design of their systems, and that other service providers receive adequate and accurate notice of the likely impact of the satellite or satellite system.

B. The Commission's Rules Should be Expressly Amended to Provide that Satellite Construction May Commence at the Operator's Own Risk.

The Commission's NPRM set out in considerable detail its proposal for eliminating the satellite construction permit requirement, emphasizing specifically that any construction undertaken under its proposed "notification" procedure would be conducted at the operator's own risk. CTA agrees with Motorola that the Commission should codify such a rule in Part 25. An express rule would emphasize the Commission's determination to simplify its regulations, and would further minimize the possibility that applicants could claim to have relied on their notification to the Commission as an express authorization to develop and build a satellite.

C. The Commission Should Place Construction Notifications by Satellite Operators on Informational Public Notice.

CTA shares GE Americom's concern that the Commission meet its statutory obligations and that it serve the public interest by ensuring that the public has timely notice on issues of interest. However, any such public notice requirement should be of minimal duration and complexity, in keeping with the Commission's conclusion that it is in the public interest to diminish the administrative burdens to applicants and the Commission staff that are associated with the satellite licensing

process. CTA therefore urges the Commission to provide only an informational public notice of the construction notification, without permitting petitions to deny. Petitions to deny would still be appropriate with respect to the underlying applications on file at the Commission.

D. The Commission Should Clarify When Operators Must File Their Construction Notifications.

As presently drafted, the proposed rules do not specify when prospective licensees must notify the Commission that they plan to commence construction of their satellites. For example, as Hughes Communications Galaxy, Inc. ("HCG"), points out, applicants arguably could identify several different points at which they could be deemed to have "commenced construction."^{6/} CTA agrees with these commenters that the Commission should clarify when construction would be deemed to have commenced for purposes of notifying the Commission. Ideally, such notice would be required at the point where the prospective licensee begins expending significant funds on the development of its satellite.

III. The Commission Should Eliminate the Construction Permit Requirement for Earth Stations that Serve as Gateways for Mobile or Fixed Satellite Systems.

In keeping with the Commission's efforts to eliminate unnecessary regulation, CTA supports Motorola's proposal that the Commission eliminate the construction permit requirement for

^{6/} HCG Comments at 2. For example, applicants could be engaging in preliminary design and/or testing, procuring long lead-time items, building for inventory, or beginning the actual physical construction of the space station. Id. See also GE Americom comments at 4.

earth stations that serve as control points and/or gateways for mobile or fixed satellite systems.^{2/} Elimination of the construction permit requirement would further the Commission goals of enhancing the flexibility and competitiveness of the satellite industry, while freeing Commission resources and speeding the provision of service to the public.

CONCLUSION

CTA strongly supports the Commission's efforts to improve the competitive position of the U.S. satellite industry by reducing or eliminating unnecessary regulation. At the same time, CTA recognizes and respects the Commission's obligations to protect the public interest, and recognizes that some regulation is necessary to meet these obligations. CTA believes that the Commission's proposals for reducing regulatory burdens on the satellite industry outlined in its NPRM, and as modified by the

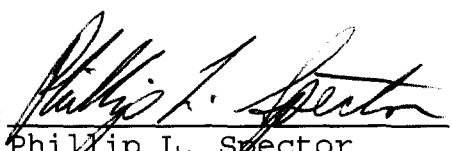
^{2/} See Motorola Comments at 3. As Motorola notes, the Commission already has eliminated the construction permit requirement for certain types of earth stations. Id.

proposals described in these reply comments, go far toward achieving the appropriate balance between flexible regulation and protection of the public interest.

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October 25, 1995

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I, Yasmin Beckford, hereby certify that I have on this 25th day of October, 1995, caused to be served a copy of the foregoing Reply Comments of CTA Incorporated, by first class mail, postage prepaid, upon the following:

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